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CLERK'S OFFICE DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

July 2007 Grand Jury

UNITED STATES OF AMERICA,) Criminal Case No. **07 CR 3192 IEG**
Plaintiff,) I N D I C T M E N T
v.) Title 18, U.S.C., Sec. 371 -
GUILLERMO GARCIA (1),) Conspiracy; Title 33, U.S.C.,
IVAN GARCIA OLIVER (2),) Secs. 1311, 1342 and
Defendants.) 1319(c)(2)(A) - Unlawful
Discharge of Pollutants; Title 42,
U.S.C., Sec. 6928(d)(2) -
Unlawful Disposal of Hazardous
Waste; Title 42, U.S.C.,
Sec. 9603(b)(3) - Failure to
Report a Release of a Hazardous
Substance; Title 18, U.S.C.,
Sec. 2 - Aiding and Abetting

The grand jury charges:

Count 1

Between a date unknown to the grand jury but at least as early as March 30, 2005, and up to and including on or about April, 2005, within the Southern District of California, defendants GUILLERMO GARCIA and IVAN GARCIA OLIVER did conspire together and with others known and unknown to the grand jury to commit offenses against the United States, to wit:

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MKP:nlv:San Diego
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- 1 a. to knowingly discharge pollutants into the waters of
2 the United States, from a point source, without a
3 permit; in violation of Title 33, United States Code,
4 Sections 1311, 1342 and 1319(c)(2)(A);
5 b. to knowingly dispose of a hazardous waste without a
6 permit; in violation of Title 42, United States Code,
7 Section 6928(d)(2); and
8 c. to fail to immediately report to the appropriate
9 agency of the United States the release of a
10 reportable quantity of a hazardous substance, other
11 than a federally permitted release, as soon as
12 acquiring knowledge of the release, as a person in
13 charge of a facility where such release occurred, in
14 violation of Title 42, United States Code,
15 Section 9603(b)(3);

16 As a method and means of the conspiracy, the defendants agreed
17 to dispose of Plasti-Kote acrylic containing toluene by dumping the
18 contents of approximately five 55 gallon drums into Slaughterhouse
19 Canyon Creek and onto the ground near the creek at night, in order to
20 save the time and money required by lawful disposal.

21 As a further method and means of the conspiracy, the defendants
22 agreed that they would make no report of any spill and if they were
23 ever questioned about the dumping by the authorities, they would
24 falsely state that there had been an accidental spill of a very small
25 quantity of the material on the Wagner site in order to conceal the
26 dumping.

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OVERT ACTS

2 In furtherance of said conspiracy and to effect and accomplish
3 the objects thereof, the following overt acts, among others, were
4 committed within the Southern District of California, and elsewhere:

1. On or about March 30, 2005, in El Cajon, defendant IVAN GARCIA OLIVER agreed with defendant GUILLERMO GARCIA to dump the contents of approximately five 55 gallons drums of Plasti-Kote acrylic containing toluene into Slaughterhouse Canyon Creek and onto the ground near the creek.
2. On or about the late night of March 30, 2005, or the early morning of March 31, 2005, in El Cajon, defendant IVAN GARCIA OLIVER, aided and abetted by defendant GUILLERMO GARCIA, dumped the contents of approximately five 55 gallons drums of Plasti-Kote acrylic containing toluene into Slaughterhouse Canyon Creek and onto the ground near the creek.
3. On or about March 31, 2005, in El Cajon, defendant GUILLERMO GARCIA falsely stated to authorities responding to the incident that it had been an accidental spill of approximately 20-30 gallons of Plasti-Kote on the Wagner site.
4. On or about April 12, 2005, in El Cajon, defendant GUILLERMO GARCIA falsely stated to a representative of the San Diego County Department of Environmental Health Services that he believed the spill occurred between 10:00 am and noon on March 31, 2005.

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1 5. On or about April 20, 2005, in El Cajon, defendant IVAN
2 GARCIA OLIVER falsely stated to a Special Agent of the U.S.
3 Environmental Protection Agency that the spill occurred in
4 the late morning or early afternoon of March 31, 2005.

5 All in violation of Title 18, United States Code, Section 371.

Count 2

7 On or about March 31, 2005, within the Southern District of
8 California, defendants GUILLERMO GARCIA and IVAN GARCIA OLIVER did
9 knowingly discharge pollutants, to wit, Plasti-kote acrylic containing
10 toluene, into the waters of the United States, to wit: Slaughterhouse
11 Creek, from a point source, that is 55 gallon drums, without a permit;
12 in violation of Title 33, United States Code, Sections 1311, 1342
13 and 1319(c)(2)(A), and Title 18, United States Code, Section 2.

Count 3

15 On or about March 31, 2005, within the Southern District of
16 California, defendants GUILLERMO GARCIA and IVAN GARCIA OLIVER did
17 knowingly dispose of a hazardous waste, to wit, Plasti-Kote acrylic
18 containing toluene, without a permit; in violation of Title 42, United
19 States Code, Section 6928(d)(2), and Title 18, United States Code,
20 Section 2.

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Count 4

2 On or about March 31, 2005, within the Southern District of
3 California, defendant GUILLERMO GARCIA, being a person in charge of
4 a facility from which a hazardous substance was released, other than
5 a federally permitted release, did fail to notify immediately the
6 appropriate agency of the United States government as soon as
7 acquiring knowledge of the release of a reportable quantity of a
8 hazardous substance, to wit: Plasti-Kote acrylic containing toluene,
9 from that facility; in violation of Title 42, United States Code,
10 Section 9603(b)(3), and Title 18, United States Code, Section 2.

DATED: November 27, 2007.

A TRUE BILL:

Mark

Foreperson

KAREN P. HEWITT
United States Attorney

By: M. K. P.
MELANIE K. PIERSON
Assistant U.S. Attorney